IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

MFA.No. 1443 of 2001()

OPMV.1502/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
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APPELLANT:
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1. MARY JACOB, AGED 65 YEARS, W/O.LATE N.M.JACOB.

2. PREETHI @ REETHA, AGED 26 YEARS, D/O.LATE N.M.JACOB.

3. PRINCY JACOB N.J., AGED 24 YEARS, D/O.LATE N.M.JACOB.

ALL THE APPELLANTS ARE RESIDING AT NELKUNNASSERY HOUSE, JESUS ROAD, VADUTHALA, COCHIN 682 023, ERNAKULAM DISTRICT.

BY ADV. SRI.ANIL S.RAJ

RESPONDENTS:
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1. V.RANGASWAMY, S/O.VENKATARAMA GOWDER, PALLATHOTTAM, WARD NO.5, THERAMPALAYAM, METTUPALAYAM, COIMBATORE.

2. M.Y.JAHAMGEER, S/O.MUHAMMED YOUSEF, F/12, NADAR COLONY, MAHADEVAPURAM POST, METTUPALAYAM TALUK, COIMBATORE. (DELETED)

3. THE NEW INDIA ASSURANCE CO. LTD., REPRESENTED BY ITS REGIONAL MANAGER, COCHIN-11.

(THE NAME OF SECOND RESPONDENT IS DELETED FROM PARTY ARRAY AT THE RISK OF THE APPELLANTS VIDE ORDER DATED 3.4.07 IN IA.713/2007)

BY ADV. SRI.P.G.GANAPPAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.1443 OF 20O1

Dated this the 20th day of September, 2007

JUDGMENT

Koshy, J.

A 29 years old tourist taxi driver suffered fatal injuries in a motor accident occurred on 2.3.1996. Mother and two younger sisters claimed compensation claiming an amount of Rs.4,62,750/- alleging that the accident occurred due to the negligent driving of lorry bearing No.TN-37-Z-7077 by the second respondent. The above lorry was owned by the first respondent and insured with the third respondent Insurance Company. The Tribunal on evidence found that the accident occurred due to the negligence of the second respondent and the offending vehicle was insured with the third respondent Insurance Company. The only dispute is the quantum of compensation. Total compensation awarded is only Rs.1,69,500/- with interest. It is the contention of the petitioner that the deceased was 29 years old and going by the second schedule, 18 should have been taken as multiplier. But the Tribunal has taken only 11 as the multiplier, taking the age of the mother and sisters, who are the claimants. It is submitted that his young sisters were unmarried.

Father already expired and the mother and sisters were entirely depending upon the income of the deceased. Since the father died, it was the obligation of the deceased to get the sisters also married away and their sole bread winner in the family died. It is now settled that when an unmarried person dies, the age of the claimants also should be looked into for fixing the multiplier. In the above circumstances, in the case of 11 taken as the multiplier, no enhancement is necessary.

The deceased was a tourist taxi driver. According to the claimants, he was getting Rs.3,300/- as monthly income. We are of the opinion that being a professional taxi driver with badge, atleast Rs.100/- can be fixed as the daily income in 1996 and he will get atleast 25-26 days' work in a month. Therefore, he was getting Rs.2,500/- per month on conservative estimate. If one-third is deducted, Rs.1,700/- can be taken as the loss of monthly dependency and loss of dependency will be Rs.1700 x 12 x 11 = Rs.2,24,400. The Tribunal has awarded only Rs.1,58,400/-. So, the additional compensation payable will be Rs.66,000/-. It is contended that compensation granted under other heads are very low. But taking into account the total amount awarded, we are of the opinion that no further enhancement is necessary. The additional amount of

compensation of Rs.66,000/- should be deposited by the third respondent Insurance Company with 7% interest from the date of application till the date of deposit over and above the amount decreed by the Tribunal. On deposit of the above amount, it can be disbursed in the proportion fixed by the Tribunal. The appeal is partly allowed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1443 OF 2001

JUDGMENT

20.9.2007